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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/603,523	06/23/2000	Edward R. Howorka	P/3331-131	9886

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EXAMINER

KARMIS, STEFANOS

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 02/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s) <span style="float: right;">SW</span>	
	09/603,523	HOWORKA ET AL.	
	Examiner	Art Unit	
	Stefano Karmis	3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>18</u> . | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 3624

### **DETAILED ACTION**

1. This communication is in response to Applicant's amendment filed on 16 December 2003.

#### ***Status of Claims***

2. Claims 1-22 have been left as originally filed. Claim 23 has been newly added. Therefore, claims 1-23 are under prosecution in this application.

#### ***Summary of this Office Action***

3. Applicant's amendment filed on 16 December 2003 has been fully considered, and discussed in the next section below. Claims 1-23 are rejected as being unpatentable over the art cited below, and Applicant's request for allowance is respectfully denied.

#### ***Response to Applicant's Amendment***

4. The examiner acknowledges Applicant's arguments in the remarks with respect to the 35 U.S.C. 103 rejection of Togher and therefore withdraws the previous rejection. Any arguments with respect to the claims are considered moot in view of the new grounds of rejection.

Art Unit: 3624

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 23, the term "and/or" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d). For examining purposes, the Examiner interprets the term in the claims to possess the "or" meaning.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-23 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Togher et al. (hereinafter Togher) U.S. Patent 6,014,627.

Claims 1 and 7, Togher discloses a method and system for anonymous trading that can identify the best bids and offers from those counter parties with which each client site is currently eligible to deal (column 2, lines 16-18). Buying and selling is facilitated through a communication network (column 4, lines 66-67). A plurality of order input devices connected to the communications network each for generating electronic order messages (Figure 1).

An arbitrator node is used to identify potential matches between buyers and sellers (column 5, lines 19-20). There are a plurality of arbitrators acting as matching engines that are connected to the communication network, each arbitrator is connected to the other plurality of arbitrators and also having means to a market distributor as well as trader terminals (Figure 1). The market distributors, which relay current market data (column 5, lines 11-12) are preferably supplemented by the arbitrator node performing criteria for matching buyers and sellers (column 5, lines 18-21). The permanent communication link between arbitrators allows for them to distribute price quotes to other devices so that traders in various regions may obtain price messages (column 5, 47-49). Togher discloses that the arbitrators identify potential match and coordinate its final execution without any communication with other arbitrators, allowing only one matching engine to be active (column 5, line 40-43). Arbitrators not performing matching functions, provide price quotes to trader terminal from different Trade Regions (column 5, lines 40-50).

Claims 2 and 3, the store of orders holds orders submitted to the trading system from order input devices via other arbitrators (column 5, 47-49).

Claim 4, a number of processing nodes (preferably in the form of MD's and ARB's) facilitate the distribution of price quotations and other market data and to execute transactions by matching eligible Market Makers with eligible Buyers and Sellers and by monitoring the transactions until they have been completed or aborted (column 6, lines 14-20).

Claim 5, "As shown in FIG. 1, each client site has its dedicated client site computer under the control of a Floor Administrator (column 5, lines 3-6). The access nodes are responsible for "distributing market information" (column 2, lines 44-45) to the trader terminals. Connecting the various Arbitrators through a permanent communication link allows for distributing a market view to other devices so that traders in alternate regions can get price messages (column 5, 47-49).

Claim 6, "DealVerify and DealVerifyOk messages are logged by and transmitted from the Maker's Market Access Node to the Taker's Market Access Node and vice versa (column 13, lines 14-16). The message is also transmitted to other Trading Floors (column 13, lines 24-25).

Claim 8, "A corresponding QuoteAvailable message is then transmitted from the Maker's Arbitrator A to the Market Distributor in its Trading Region...(column 12, lines 28-30)."

Claim 9, a system with the use of "logical links" to ensure that messages sent in a certain order are guaranteed to reach their destination in the same order. "The communication network is preferably provided with sufficient error detection, error correction, and network self-repair

Art Unit: 3624

capabilities to guarantee that messages sent via these logical links are error free” (column 6, lines 1-11).

Claim 10, market distributors that typically analyze and distribute current market data (column 5, lines 11-12) and arbitrators allow for distributing of price quotes to traders in multiple regions (column 5, 47-49).

Claim 11, Togher discloses, “each client site preferably provides the system with only limited credit information for each potential counterparty (for example, a one bit flag indicating whether a predetermined limit has already been exceeded) and each bid or offer for a particular type of financial instrument is preferably prescreened by the system for compatibility with that limited credit information before calculating an anonymous "Dealable" price for presentation to any of the traders dealing with that particular financial instrument” (column 2, lines 23-32).

Claim 12, “Arbitrator A updates an ordered list of available bids and an ordered list of available offers for the relevant currency pair, each ranked by price and time of receipt and containing data fields for indicating the Quantity of the Local Currency still available for purchase or sale and the Quantity reserved by the Arbitrator pending completion or failure of a pending deal resulting from a potential match initiated by the arbitrator...” (column 12, lines 19-27).

Art Unit: 3624

Claims 13 and 19, Togher discloses a method and system for anonymous trading that can identify the best bids and offers from those counter parties with which each client site is currently eligible to deal (column 2, lines 16-18). Buying and selling is facilitated through a communication network (column 4, lines 66-67). A plurality of order input devices connected to the communications network each for generating electronic order messages (Figure 1). An arbitrator node is used to identify potential matches between buyers and sellers (column 5, lines 19-20). There are a plurality of arbitrators acting as matching engines that are connected to the communication network, each arbitrator is connected to the other plurality of arbitrators and also having means to a market distributor as well as trader terminals (Figure 1). The market distributors, which relay current market data (column 5, lines 11-12) are preferably supplemented by the arbitrator node performing criteria for matching buyers and sellers (column 5, lines 18-21). The permanent communication link between arbitrators allows for them to distribute price quotes to other devices so that traders in various regions may obtain price messages (column 5, 47-49). Togher discloses that each arbitrator identifies a potential match and coordinates its final execution without any communication with other arbitrators, allowing only one matching engine to be active (column 5, line 40-43). Arbitrators not performing matching functions, provide price quotes to trader terminal from different Trade Regions (column 5, lines 40-50).

Claim 14, "The host computer uses the information in its central data base to match active bids and offers (as well as executing any transitory "hit bid" and "take offer" transactions) based on matching criteria which include the gross counterparty credit limit



Art Unit: 3624

between counterparties to a potential matching transaction, price, and available quantity. To that end, each client site establishes and may subsequently vary or reset a credit limit for each possible counterparty, which is used by the host computer to establish the gross counterparty credit limit for each possible pair of parties and which is equal to the minimum of the remaining credit (initial credit limit less any applicable transactions that have already been executed) from the first party to the second party and from the second party to the first party” (column 1, lines 28-41).

Claim 15, the communication network is arranged in a clique tree configuration (figure 1).

Claim 16, “it should be understood that each Arbitrator also maintains a log of potential matches which have not yet been verified or canceled by the affected Market Access Node’s, and that if these potential matches are not resolved within a predetermined time period, a similar automated rollback/recovery process can update the ARB’s log...” (column 13, lines 34-40).

“A number of processing nodes (preferably in the form of MD's and ARB's) facilitate the distribution of price quotations and other market data and to execute transactions by matching eligible Market Makers with eligible Buyers and Sellers and by monitoring the transactions until they have been completed or aborted...” (column 6, lines 14-20).

Claim 17, a corresponding QuoteAvailable message is then transmitted from the Maker's Arbitrator A to the Market Distributor in its Trading Region and to the other Arbitrators for eventual distribution to other Trading Regions (column 12, lines 28-32). Messages verifying the transaction are also transmitted to the other Trading Floors (column 13, lines 23-25).

Claim 18, a market view that provides a best Deable price to the Trader Profile panel, which is the best price available to that trader (column 8, line 38-40).

Claims 20 and 23, Togher discloses a method and system for anonymous trading that can identify the best bids and offers from those counter parties with which each client site is currently eligible to deal (column 2, lines 16-18). Buying and selling is facilitated through a communication network (column 4, lines 66-67). A plurality of order input devices connected to the communications network each for generating electronic order messages (Figure 1). An arbitrator node is used to identify potential matches between buyers and sellers (column 5, lines 19-20). There are a plurality of arbitrators acting as matching engines that are connected to the communication network, each arbitrator is connected to the other plurality of arbitrators and also having means to a market distributor as well as trader terminals (Figure 1). The market distributors, which relay current market data (column 5, lines 11-12) are preferably supplemented by the arbitrator node performing criteria for matching buyers and sellers (column 5, lines 18-21). The permanent communication link between arbitrators allows for them to distribute price quotes to other devices so that traders in various regions may obtain price messages (column 5, 47-49). Togher discloses that each arbitrator identifies a potential match

Art Unit: 3624

and coordinates its final execution without any communication with other arbitrators, allowing only one matching engine to be active (column 5, line 40-43). Arbitrators not performing matching functions, provide price quotes to trader terminal from different Trade Regions (column 5, lines 40-50).

Claim 21, "each client site establishes and may subsequently vary or reset a credit limit for each possible counterparty, which is used by the host computer to establish the gross counterparty credit limit for each possible pair of parties and which is equal to the minimum of the remaining credit (initial credit limit less any applicable transactions that have already been executed) from the first party to the second party and from the second party to the first party" (column 1, lines 34-41).

Claim 22, "it should be understood that each Arbitrator also maintains a log of potential matches which have not yet been verified or canceled by the affected Market Access Node's, and that if these potential matches are not resolved within a predetermined time period, a similar automated rollback/recovery process can update the ARB's log..." (column 13, lines 34-40). "A number of processing nodes (preferably in the form of MD's and ARB's) facilitate the distribution of price quotations and other market data and to execute transactions by matching eligible Market Makers with eligible Buyers and Sellers and by monitoring the transactions until they have been completed or aborted" (column 6, lines 14-20).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefano Karmis whose telephone number is (703) 305-8130. The examiner can normally be reached on M-F: 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully Submitted  
Stefano Karmis  
13 February 2004

  
**HANI M. KAZIMI**  
**PRIMARY EXAMINER**